

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:
SCOTT KERNER,

Chapter 11
Case No. 17-13514 (MG)

Debtor.
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**ORDER: (A) DENYING DEBTOR'S MOTION TO ESTABLISH BIDDING AND
NOTICING PROCEDURES IN CONNECTION WITH SALE OF REAL PROPERTY;
AND (B) DECLARING PRE-PETITION CONTRACT OF SALE TO BE TERMINATED
AND DIRECTING RETURN OF DOWN PAYMENT**

UPON the motion of Scott Kerner, the debtor and debtor-in-possession herein (the "Debtor"), dated December 28, 2017, and the exhibits annexed thereto (the "Motion") (ECF Doc. # 18), for entry of an Order establishing bidding and noticing procedures, and scheduling auction and hearing dates, in connection with the Debtor's proposed sale of his residential condominium unit located at 515 East 72nd Street, Unit 7J, New York, New York (the "Condominium Unit"); and due and adequate notice of the Motion and the hearing thereon having been provided to all necessary parties; and it appearing that no other or further notice need be given; and upon the record of the hearing held on January 31, 2018 in connection with the Motion; and the Court having considered the opposition to the Motion interposed by Payam Khaghan and Jennifer Robinson-Khaghan (together, the "Khaghans") (ECF Doc. # 36) and the Debtor's reply thereto (ECF Doc. # 38); and after due deliberation and sufficient cause appearing therefore; it is hereby

ORDERED, that the Motion is denied for the reasons stated on the record of the January 31, 2018 hearing; and it is further

ORDERED, that the Condominium Unit Contract of Sale, dated as of September 30, 2017, between the Debtor, as seller, and the Khaghans, as Purchaser, with regard to the Condominium Unit (the "Contract of Sale"), is declared to have been terminated, with all rights, claims and

defenses of the Debtor and the Khaghans arising from or in connection with said termination being reserved; and it is further

ORDERED, that within two (2) days of the entry of this Order on the docket of this case, Lawrence Morrison, Esq., as escrowee, shall remit by electronic transfer of immediately available funds the amount of \$191,800 to an account designated by the Khaghans, representing the full refund of the down payment tendered by the Khaghans in connection with the Contract of Sale; and it is further

ORDERED, that the Debtor's motion seeking authorization and approval of the sale of the Condominium Unit to the Khaghans pursuant to the Contract of Sale subject to any higher or better offers is deemed to have been withdrawn.

IT IS SO ORDERED.

Dated: February 6, 2018
New York, New York

/s/ Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge